

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 18918 (Application 27659)

Brent Wiggin, Inc.

ORDER REVOKING PERMIT

SOURCE: An Unnamed Stream tributary to Whiskey Creek thence South Branch Sand Creek thence Sand Creek thence Colusa Basin Drain

COUNTY: Colusa County

You are hereby notified that, pursuant to sections 1410-1410.2 of the California Water Code, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), is revoking Permit 18918 because the Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 18918 and has not made beneficial use of the water in accordance with the permit, the Water Code, and the State Water Board's regulations.

The revocation is based upon the following facts, information and conclusions:

The State Water Board issued Permit 18918 on July 15, 1983. The permit authorizes Brent Wiggin, Inc. (Permittee) to divert six acre-feet of water. The permit requires that construction work be completed by December 1, 1986, and that the water be applied to the authorized use by December 1, 1987.

PERMITTEE HAS FAILED TO COMMENCE, PROSECUTE WITH DUE DILIGENCE, AND COMPLETE THE WORK NECESSARY TO APPROPRIATE WATER UNDER THE PERMIT

1. A pre-license inspection, performed on September 14, 1988, noted that the reservoir authorized under Permit 18918 was not constructed.
2. Permittee requested, and on May 23, 1989 the Division granted, an extension of time to commence or complete construction work or apply the water to full beneficial use. The time extension order required construction to be completed by December 31, 1992, and that water be fully used by December 31, 1993.
3. On June 1, 2006, Permittee filed a petition with the State Water Board requesting an extension of time.
4. On July 26, 2006, the Division denied the petition for time extension because Permittee: (1) did not include the required environmental information; (2) did not include the required filing fees; and (3) did not consult with and receive approval from the Department of Fish and Game and the appropriate Regional Water Quality Control Board regarding the proposed change in the point of diversion.

5. A subsequent pre-license inspection was performed on September 5, 2006. Division staff noted that a dam had been constructed, but it had washed out. As such, staff concluded that the facilities had been abandoned and the diversion system was found to be non-functional.
6. Permittee indicated during the September 5, 2006 inspection that he was no longer interested in pursuing a time extension and preferred to revoke the water right. Staff sent a Revocation Request form to Permittee on February 14, 2006. The signed Revocation Request has not been returned.
7. Satellite photographs dated 1998 suggest that the dam was breached at that time. Therefore, Permittee ceased to put water granted under the permit to beneficial use for more than five consecutive years. Section 1241 of the California Water Code provides for loss of an appropriative water right after five consecutive years of nonuse of water.

BASED ON THE ABOVE FACTS AND INFORMATION, THE DIVISION CONCLUDES THAT CAUSE EXISTS FOR THE REVOCATION OF PERMIT 18918 PURSUANT TO WATER CODE SECTION 1410, SUBDIVISION (a) BECAUSE:

1. Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 18918.
2. Permittee has failed to use beneficially all or part of the water for the purpose for which it was appropriated for a period of five years or more.

On January 28, 2008, the Division issued a Notice of Proposed Revocation to Permittee by certified mail. The notice provided that unless the Division received a written request for a hearing signed by or on behalf of the Permittee within 15 days after the receipt by the Permittee of the notice, the State Water Board could act upon the proposed revocation of the permit without a hearing. Permittee did not submit a request for a hearing to the Division within the time period provided.

Based on the above facts and conclusions, the State Water Board, Division of Water Rights hereby revokes Permit 18918.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
JOHN O'HAGAN FOR:

Victoria A. Whitney, Chief
Division of Water Rights

Dated: MAR 30 2009

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 18918

Application 27659 of Brent Wiggin, Inc.

Route 1, Box 17, Arbuckle, California 95912

filed on February 23, 1983, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Whiskey Creek thence

South Branch Sand Creek thence

Sand Creek thence

Colusa Basin Drain

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
North 450 feet and West 300 feet from SE corner of Section 2	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	2	13N	3W	MD

County of Colusa

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Recreational						
Stockwatering	Reservoir #4 in SE $\frac{1}{4}$ of SE $\frac{1}{4}$	2	13N	3W	MD	
Irrigation	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	2	13N	3W	MD	10

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 6 acre-feet per annum to be collected from October 1 of each year to May 30 of the succeeding year.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

8. Construction work shall be completed by December 1, 1986.

9. Complete application of the water to the authorized use shall be made by December 1, 1987.

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

12. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

14. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to the results of a comprehensive analysis of the availability of unappropriated water in the Sacramento River Basin. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing.

15. This permit is subject to prior rights. Permittee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

16. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

- A. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
- B. Supplemental Project water is defined as water imported to the basin by the projects, and water released from Project storage, which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The Board shall notify the permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

17. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region, or by the State Water Resources Control Board.

Failure of permittee to comply with this term will subject the permit to revocation, after opportunity for hearing.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JULY 15 1983

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh

Chief, Division of Water Rights

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